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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/605,039	06/27/2000	Herbert Baechler	32771US1	8774

116 7590 05/29/2003

PEARNE & GORDON LLP  
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CLEVELAND, OH 44114-1484

EXAMINER
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NI, SUHAN

ART UNIT	PAPER NUMBER
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2643

DATE MAILED: 05/29/2003

14

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/605,039	BAECHLER, HERBERT
<b>Examiner</b>	<b>Art Unit</b>	
Suhan Ni	2643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 10 February 2003.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 6-17 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 6-17 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ .
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. .	6) <input type="checkbox"/> Other: _____ .

**DETAILED ACTION**

1. A request for continued examination (RCE) under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission for RCE filed on 03/10/2003 has been entered.

2. This communication is responsive to the amendment filed on 02/12/20003.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

3. Claims 6, 8-12 and 14-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Ishige et al. (US-5,910,997).

Regarding claims 6, 11-12 and 17, Ishige et al. disclose a fitting system for fitting a hearing aid, comprising: a fitting calculator unit (1d), receiving an input (from 1a, 1e) and generating a setting signal output (to 3) for a hearing aid; and a rating unit (1a, 1e) for generating an output in response to an auditory stimulus applied to a user of the hearing aid; wherein said output of said rating unit is linked to said input of said fitting calculator unit and the setting

signal output of the calculator unit is linked to a setting input of a hearing aid via a bi-directional interface unit (3a) remote from said fitting calculator unit as claimed.

Regarding claims 8 and 14, Ishige et al. Further disclose the fitting system for fitting a hearing aid, wherein the rating unit has keypad (1e) and a voice input device (1a).

Regarding claims 9 and 15, Ishige et al. Further disclose the fitting system for fitting a hearing aid, wherein the interface unit is a standalone unit (3a, 10) as claimed.

Regarding claims 10 and 16, Ishige et al. Further disclose the fitting system for fitting a hearing aid, wherein at least a part of the interface unit is a wireless link (Fig. 3) as claimed.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 7 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ishige et al. (US-5,910,997) over Vegter (US-6,286,073).

Regarding claims 7 and 13, Ishige et al. do not clearly show that said interface unit is an I<sup>2</sup>C interface as claimed. Vegter discloses an I<sup>2</sup>C interface (10), which is suitable for communicating data between a personal computer and an external device (col. 1, lines 57-67). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to be motivated to provide the I<sup>2</sup>C interface or bus taught by Vegter for the hearing aid fitting system as an alternate choice, in order to provide more efficient and effective communication (col. 2, lines 16-24).

*Response to Amendment*

5. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

*Conclusion*

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Suhan Ni** whose telephone number is **(703)-308-9322**, and the number for fax machine is **(703)-305-9508**. The examiner can normally be reached on Monday through Thursday from 9:30 am to 8:00 pm. If it is necessary, the examiner's supervisor, **Curtis Kuntz**, can be reached at **(703) 305-4708**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is **(703) 305-3900**.

Suhan Ni

May 24, 2003

SUHAN NI  
PATENT EXAMINER

*Suhan Ni*